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UNCLAS SECTION 01 OF 03 TALLINN 000113

SIPDIS

DEPT FOR EUR/NB KATHERINE GARRY
DEPT PLEASE PASS TO USTR FOR LMOLNAR
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DOC FOR ITA/MAC/OIPR CASSIE PETERS AND ITA LEAH MARKOWITZ
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E.O. 12958: N/A

TAGS: [ETRD](#) [KIPR](#) [ECON](#) [EUR](#) [EN](#)

SUBJECT: ESTONIAN CUSTOMS CONFERENCE: ENFORCING IPR AT THE
BORDER

1. (SBU) Summary: A seminar sponsored by the U.S. Patent and Trademark Office (USPTO) and Embassy Tallinn brought together Estonian, Finnish and U.S. customs inspectors in the city of Narva, on the Russian border, for two days of discussion on intellectual property rights (IPR) and border enforcement. Participants heard from the Ambassador and key local leaders about the importance of IPR protection for innovation. Speakers displayed samples of seized counterfeit and copyright infringing goods, discussed risk identifiers for suspect shipping, and led the participants in panel discussions and case studies of IPR infringement scenarios. The event received press coverage from national TV as well as newspapers in Tallinn and Narva both in Estonian and Russian, and supported Tallinn's MSP goal of promoting economic growth and prosperity. Russian Customs officials were invited, but did not attend. End Summary.

If You Can Make It, They Can Fake It

2. (U) On March 11-12, the USPTO and Embassy hosted an IPR border enforcement seminar for over 40 Estonian customs and border inspectors. This year's conference, the third funded and supported by the USPTO in Estonia since 2006, was held in the Estonia's eastern city of Narva. As the easternmost checkpoint in or out of the European Union (EU), Narva was an ideal location, as Estonia seeks a greater share of international trade into the EU from the Far East. Experts from the Department of Homeland Security, Customs and Border Protection (DHS/CBP), DHS Immigration and Customs Enforcement (ICE), the Finnish National Board of Customs, and the Estonian Tax and Customs Board showed numerous samples of seized pharmaceuticals, fashion accessories, clothing, etc. While counterfeiters once concentrated almost exclusively on high-end luxury goods, today's makers of bootleg products produce anything and everything they can make a profit on. Samples included fishing rods, perfumes, energy drinks, cigarettes and branded lighters, light switches, circuit breakers, batteries, cellular phone parts, toothbrushes, toys of all descriptions, slippers, track suits, and all manner of other garments ... you name it. U.S. Customs officials estimated that over 80 percent of the counterfeit goods they seize originate in China.

3. (U) Senior officials from Finland's National Board of

Customs and the port of Kotka outlined many of the risk indicators they look for both from shipping and labeling patterns. (Note: They estimate that 600,000 containers transit the Kotka port each year, or roughly 30% of all goods passing into Russia. End Note.) Red flags during examination of paperwork include: inconsistencies in bills of lading, suspect senders, brokers or receivers, suspicious routes (especially via Dubai), undervaluation of merchandise, and other indicators.

¶4. (U) Finnish Customs also outlined indicators they focus on during physical inspection, include co-mingling of different brands shipped in the same container, spelling mistakes on packaging, mismatched labeling or product sizes, luxury products of poor quality, and many other identifiers that tip off seasoned inspectors. One amusing case involved a shipment of over 54,000 units of empty tin cases for Cognac. The shipment was transiting Finland en route to Russia from China, in violation of geographical indicator (GI) rights. DHS/CBP and DHS/ICE confirmed that they look for many of the same risk indicators when inspecting shipments.

Working with Rights Holders, and Border Inspection Tour

¶5. (U) Speakers from all three countries said they will typically send digital photographs of seized goods to legitimate rights holders for expert analysis of the workmanship and labeling of the product. Goods confirmed to be counterfeit are destroyed, and fines may be assessed. All stressed that close cooperation with rights holders was essential, especially in identifying rare or technical goods, and very high-quality fakes. In one key difference, however, DHS/CBP itself makes the final determination of IP infringement by an importer, whereas in Estonia, customs officials depend heavily upon the rights holder to make the

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actual determination that an IP rights infringement has occurred. At this point, Estonian customs will refer the case to investigators, who in turn will refer the case to prosecutors if necessary. (Note: Estonian Customs' dependence on right holders is due to limited cooperation between them. Industry considers the Estonian market insignificant, and that small quantities of counterfeit goods do not pose a major economic loss for them. In the rare cases that industry makes the effort to provide expert opinion, Estonian Customs is inclined to give heavy weight to it. End Note.)

¶6. (U) In keynote remarks at the conclusion of day one of the seminar, the Ambassador noted the vital role that trademark and copyright protection has in spurring innovation, and adding value to the economy. The Finnish Ambassador, Jakko Kalela, echoed these remarks, as did the Mayor of Narva, and an Estonian Member of Parliament (MP) who serves on the Economic Affairs Committee with responsibility for IPR issues.

¶7. (U) The presenters shared best practices based upon their collective experience examining import shipments, working with reputable and suspect shippers, and identifying risk patterns in trade. The Estonian participants clearly demonstrated that they are seeing many of the same tricks by illegal importers, and have developed similar techniques for countering trademark violations, even though their market is much smaller than neighboring Finland and Russia.

¶8. (U) Day two of the conference began with a tour of the Narva Customs and Border Control checkpoint. Estonian Customs showed all participants their checkpoints for pedestrians, private vehicles and commercial trucks, including radiation detectors, vehicle x-rays, and short-term warehousing and cold storage for goods seized pending final disposition. Panelists followed this tour with

sessions on copyright issues. All participants noted the decrease of pirated copyright materials crossing borders, due largely to the fact that pirated materials have moved to the Internet. Also, Finland's 'zero tolerance policy' has almost wiped out Estonian production of bootleg CDs and DVDs for 'suitcase pirates', as the policy makes owning even one copy of pirated materials a crime. In Estonia, all copyright materials seized by Customs are examined by the Estonian Organization for Copyright Protection (EOCP) which represents right holders. The cooperation between Customs and EOCP serves as a model also for trademark right holders.

¶9. (SBU) In cooperation with Embassy Moscow and the Russian Embassy in Tallinn, Embassy invited Russian customs officials to participate in the conference and USPTO offered to pay all expenses for their participation. Unfortunately, Russian Customs declined to send any representatives to the conference. The Russian Consul General in Narva, however, appeared at the opening of the conference and the welcome dinner, and noted that Customs inspectors from Ivangorod - the Russian border point across the Narva river - would have liked to participate. All participants said that Russian Customs Officials could have greatly contributed to the information exchange, had they been present.

¶10. (U) Comment: DHS/CBP and ICE confirmed that our Estonian colleagues' technology and risk analysis for inspecting goods for import or transit are very much on par with U.S. standards. The seminar allowed over 40 inspectors from all four regions of Estonia to exchange best practices with their Finnish and U.S counterparts. The training indicated the need for closer international cooperation between Customs Agencies, especially in light of the rising tide of imports and transit goods - legitimate and counterfeit alike - from China. In written evaluations, participants rated the panel discussions and cases studies very highly. End Comment.

¶11. (U) Post would especially like to thank Embassy Helsinki and Embassy Moscow for their assistance organizing this conference.

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¶12. (U) This cable was cleared by USPTO and DHS.

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